

REMARKS

Applicant has carefully studied the outstanding Office Action in the present application. The present response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Claims 17 and 18 stand rejected under 35 USC 102(b) as being anticipated by Grosshuesch. Claims 17-19 stand rejected under 35 USC 102(b) as being anticipated by Stollberg. Claims 17-21, 26 and 27 stand rejected under 35 USC 102(b) as being anticipated by Esty. Claims 17, 19 20, 22-25 and 28-32 stand rejected under 35 USC 102(b) as being anticipated by Scholz et al. Claims 22-25 and 28-32 stand rejected under 35 USC 103(a) as being unpatentable over Esty, further in view of Floyd et al.

Applicant expresses his appreciation to Examiner Robert Madsen for the courtesy of an interview, which was granted to Applicant's representative, Sanford T. Colb (Reg. No. 26,856). The interview was held in the USPTO on January 7, 2003.

In the interview, claims 17-32 were discussed vis-à-vis the prior art of record. The Interview Summary Record states, in relevant part, that "Applicant proposes to incorporate claim 20 into claim 17 (without the limitation of claim 19) with the addition of 'which is a water vapor permeable plastic bag' after 'interiorly disposed bag'. Applicant proposes canceling claims 1-16, 20, 30-49. Examiner will update search." The Examiner subsequently informed Applicant's representative that the proposed amendment was anticipated by the prior art.

Applicant has amended claim 17 to also include the recitation of claims 18 and 20. Claim 17 has thus been amended to recite both a plurality of ventilation apertures formed in at least one wall thereof and an interiorly disposed bag, which is a water vapor permeable plastic bag. Claims 1-16, 18, 20 and 30-49 have been cancelled without prejudice. Additionally, claims 21 and 26 have been amended to depend from claim 17 instead of cancelled claim 20. Claims 23 and 29 have been amended to depend from claims 22 and 28 respectively, instead of cancelled claim 20.

In contrast to claim 17 as amended:

Esty discloses a carton with a sealable aperture in a wall and an interiorly disposed bag. Floyd (5,505,950) discloses a carton with an interiorly disposed bag,

which is a water vapor permeable bag. Grosshuesch (4,513,907) discloses a container with a plurality of ventilation apertures. Stollberg (4,163,494) discloses a container with a plurality of apertures and a gas impervious layer arranged for sealing. Hayashi (5,698,249) discloses a container with an interiorly disposed bag, which is a water vapor permeable plastic bag.

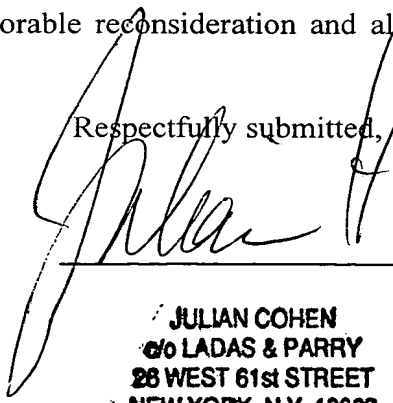
None of these prior art references shows or suggests 'a carton suitable for packing agricultural produce comprising at least one sealable localized atmosphere communication aperture formed in a wall thereof, a plurality of ventilation apertures formed in at least one wall thereof and an interiorly disposed bag which is a water vapor permeable plastic bag' as is claimed in amended claim 17.

With reference to the above discussion, claim 17 is deemed patentable over the prior art of record and favorable reconsideration is respectfully requested. Claims 19 and 21 - 29 depend directly or ultimately from claim 17 and recite additional patentable subject matter and therefore are deemed patentable a fortiori.

Applicant reserves the right to pursue the claims as filed in the context of a continuation application.

In view of the foregoing amendments, all of the claims are deemed to be allowable. Favorable reconsideration and allowance of the application is respectfully requested.

Respectfully submitted,


JULIAN COHEN
c/o LADAS & PARRY
28 WEST 61st STREET
NEW YORK, N.Y. 10023
Reg. No. 20302 (212) 708-1888